

House File 677

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AN ACT

RELATING TO NEW CAPITAL INVESTMENT FOR BUSINESSES AND NEW JOBS
BY CREATING A NEW CAPITAL INVESTMENT PROGRAM, CREATING TAX
INCENTIVES, AND AMENDING THE NEW JOBS AND INCOME PROGRAM.

1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 9

1 10 Section 1. NEW SECTION. 15.381 SHORT TITLE.

1 11 This part shall be known as and may be cited as the "New
1 12 Capital Investment Program".

1 13 Sec. 2. NEW SECTION. 15.382 PURPOSE.

1 14 It is the purpose of this part to promote new economic
1 15 development through new capital investments that upgrade and
1 16 expand the capabilities of Iowa businesses by allowing the
1 17 businesses to be more competitive in the world economy.

1 18 Sec. 3. NEW SECTION. 15.383 DEFINITIONS.

1 19 As used in this part, unless the context otherwise
1 20 requires:

1 21 1. "Community" means a city, county, or other entity
1 22 established pursuant to chapter 28E.

1 23 2. "Eligible business" means a business which has been
1 24 approved to receive incentives by the department pursuant to
1 25 section 15.384, subsection 3.

1 26 Sec. 4. NEW SECTION. 15.384 ELIGIBLE BUSINESS.

1 27 1. To be eligible to receive incentives under this part, a
1 28 business shall meet all of the following requirements:

1 29 a. The business has not closed or reduced its operation in
1 30 one area of the state and relocated substantially the same
1 31 operation in the community.

1 32 b. The business is not a retail business or a business
1 33 where entrance is limited by a cover charge or membership
1 34 requirement.

1 35 c. The business makes a capital investment of at least one
2 1 million dollars.

2 2 d. The business creates high-quality jobs due to the
2 3 capital investment. In determining whether high-quality jobs
2 4 are created, the department shall place greater emphasis on
2 5 jobs that have all the following characteristics:

2 6 (1) Have a wage equal to at least the average county wage.

2 7 (2) Are full-time or career-type positions.

2 8 (3) Provide comprehensive health benefits.

2 9 (4) Have other related characteristics which could be
2 10 considered to be higher in quality than do other jobs.

2 11 e. The start-up, location, or expansion of the business
2 12 occurs within a specified period which will be negotiated with
2 13 the department and the community, but which shall be at least
2 14 a period of three years.

2 15 f. The business provides the community and the department
2 16 with an affidavit stating that the business has not, within
2 17 the five years prior to the application date, violated state
2 18 or federal environmental or worker safety statutes, rules, or
2 19 regulations or, if such violation has occurred, that there
2 20 were mitigating circumstances or such violations did not
2 21 seriously affect public health or safety or the environment.

2 22 2. The community and the department may also consider a
2 23 variety of factors, including the following, in determining
2 24 the eligibility of a business to participate in the program:

2 25 a. The impact of the proposed project on the community and
2 26 the state.

2 27 b. The impact the business will have on other businesses
2 28 in competition with it.

2 29 c. The potential for future growth in the industry
2 30 represented by the business.

2 31 d. The impact the proposed new capital investment will
2 32 have on the ability of the business to expand, upgrade, or
2 33 modernize its capabilities, and the extent to which the new
2 34 capital investment will result in a more productive and
2 35 competitive business enterprise and workforce.

3 1 e. The local funding match to be provided.

3 2 3. If the community determines that a business is
3 3 eligible, the community shall approve by resolution the
3 4 application for incentives. Once a business is found to be
3 5 eligible, the community shall submit the application to the

3 6 department. The department may approve, defer, or deny the
3 7 application.

3 8 Sec. 5. NEW SECTION. 15.385 INCENTIVES.

3 9 For tax years beginning on or after January 1, 2003, an
3 10 eligible business shall be eligible to receive some or all of
3 11 the following incentives:

3 12 1. Sales, services, and use tax refund, as provided in
3 13 section 15.331A.

3 14 2. Research activities credit, as provided in section
3 15 15.335.

3 16 3. a. An eligible business may claim a tax credit equal
3 17 to a percentage of the new investment directly related to new
3 18 jobs created by the location or expansion of an eligible
3 19 business under the program. The tax credit shall be allowed
3 20 against taxes imposed under chapter 422, division II, III, or
3 21 V. If the business is a partnership, S corporation, limited
3 22 liability company, cooperative organized under chapter 501 and
3 23 filing as a partnership for federal tax purposes, or estate or
3 24 trust electing to have the income taxed directly to the
3 25 individual, an individual may claim the tax credit allowed.
3 26 The amount claimed by the individual shall be based upon the
3 27 pro rata share of the individual's earnings of the
3 28 partnership, S corporation, limited liability company,
3 29 cooperative organized under chapter 501 and filing as a
3 30 partnership for federal tax purposes, or estate or trust. The
3 31 percentage shall be equal to the amount provided in paragraph
3 32 "d". Any tax credit in excess of the tax liability for the
3 33 tax year may be credited to the tax liability for the
3 34 following seven years or until depleted, whichever occurs
3 35 first.

4 1 Subject to prior approval by the department of economic
4 2 development, in consultation with the department of revenue
4 3 and finance, an eligible business whose project primarily
4 4 involves the production of value-added agricultural products
4 5 or uses biotechnology-related processes may elect to receive a
4 6 refund of all or a portion of an unused tax credit. For
4 7 purposes of this subsection, such an eligible business
4 8 includes a cooperative described in section 521 of the
4 9 Internal Revenue Code which is not required to file an Iowa
4 10 corporate income tax return, and whose project primarily
4 11 involves the production of ethanol. The refund may be applied
4 12 against a tax liability imposed under chapter 422, division
4 13 II, III, or V. If the business is a partnership, subchapter S
4 14 corporation, limited liability company, cooperative organized
4 15 under chapter 501 and filing as a partnership for federal tax
4 16 purposes, or estate or trust electing to have the income taxed
4 17 directly to the individual, an individual may claim the tax
4 18 credit allowed. The amount claimed by the individual shall be
4 19 based upon the pro rata share of the individual's earnings of
4 20 the partnership, subchapter S corporation, limited liability
4 21 company, cooperative organized under chapter 501 and filing as
4 22 a partnership for federal tax purposes, or estate or trust.

4 23 b. For purposes of this subsection, "new investment
4 24 directly related to new jobs created by the location or
4 25 expansion of an eligible business under the program" means the
4 26 cost of machinery and equipment, as defined in section 427A.1,
4 27 subsection 1, paragraphs "e" and "j", purchased for use in the
4 28 operation of the eligible business, the purchase price of
4 29 which has been depreciated in accordance with generally
4 30 accepted accounting principles, the purchase price of real
4 31 property and any buildings and structures located on the real
4 32 property, and the cost of improvements made to real property
4 33 which is used in the operation of the eligible business. If,
4 34 however, within five years of purchase, the eligible business
4 35 sells, disposes of, razes, or otherwise renders unusable all
5 1 or a part of the land, buildings, or other existing structures
5 2 for which tax credit was claimed under this section, the
5 3 income tax liability of the eligible business for the year in
5 4 which all or part of the property is sold, disposed of, razed,
5 5 or otherwise rendered unusable shall be increased by one of
5 6 the following amounts:

5 7 (1) One hundred percent of the tax credit claimed under
5 8 this subsection if the property ceases to be eligible for the
5 9 tax credit within one full year after being placed in service.

5 10 (2) Eighty percent of the tax credit claimed under this
5 11 subsection if the property ceases to be eligible for the tax
5 12 credit within two full years after being placed in service.

5 13 (3) Sixty percent of the tax credit claimed under this
5 14 subsection if the property ceases to be eligible for the tax
5 15 credit within three full years after being placed in service.

5 16 (4) Forty percent of the tax credit claimed under this

5 17 subsection if the property ceases to be eligible for the tax
5 18 credit within four full years after being placed in service.

5 19 (5) Twenty percent of the tax credit claimed under this
5 20 subsection if the property ceases to be eligible for the tax
5 21 credit within five full years after being placed in service.

5 22 c. (1) An eligible business whose project primarily
5 23 involves the production of value-added agricultural products
5 24 or uses biotechnology-related processes, which elects to
5 25 receive a refund of all or a portion of an unused tax credit,
5 26 shall apply to the department of economic development for tax
5 27 credit certificates. Such an eligible business shall not
5 28 claim a tax credit refund under this subsection unless a tax
5 29 credit certificate issued by the department of economic
5 30 development is attached to the taxpayer's tax return for the
5 31 tax year for which the tax credit refund is claimed. For
5 32 purposes of this subsection, an eligible business includes a
5 33 cooperative described in section 521 of the Internal Revenue
5 34 Code which is not required to file an Iowa corporate income
5 35 tax return, and whose project primarily involves the
6 1 production of ethanol. For purposes of this subsection, an
6 2 eligible business also includes a cooperative described in
6 3 section 521 of the Internal Revenue Code which is required to
6 4 file an Iowa corporate income tax return and whose project
6 5 primarily involves the production of ethanol. Such
6 6 cooperative may elect to transfer all or a portion of its tax
6 7 credit to its members. The amount of tax credit transferred
6 8 and claimed by a member shall be based upon the pro rata share
6 9 of the member's earnings of the cooperative.

6 10 (2) A tax credit certificate shall not be valid until the
6 11 tax year following the date of the capital investment project
6 12 completion. A tax credit certificate shall contain the
6 13 taxpayer's name, address, tax identification number, the date
6 14 of project completion, the amount of the tax credit, and other
6 15 information required by the department of revenue and finance.
6 16 The department of economic development shall not issue tax
6 17 credit certificates under this subsection and section 15.333,
6 18 subsection 2, which total more than four million dollars
6 19 during a fiscal year. If the department receives and approves
6 20 applications for tax credit certificates under this subsection
6 21 and section 15.333, subsection 2, in excess of four million
6 22 dollars, the applicants shall receive certificates for a
6 23 prorated amount. The tax credit certificates shall not be
6 24 transferred except as provided in this subsection for a
6 25 cooperative described in section 521 of the Internal Revenue
6 26 Code which is required to file an Iowa corporate income tax
6 27 return and whose project primarily involves the production of
6 28 ethanol. For a cooperative described in section 521 of the
6 29 Internal Revenue Code, the department of economic development
6 30 shall require that the cooperative submit a list of its
6 31 members and the share of each member's interest in the
6 32 cooperative. The department shall issue a tax credit
6 33 certificate to each member contained on the submitted list.

6 34 d. The amount of a tax credit claimed under this
6 35 subsection shall be determined as follows:

7 1 (1) If the department determines, based on the application
7 2 of the eligible business, that high-quality jobs are not
7 3 created but economic activity within the state is advanced,
7 4 the eligible business may claim a tax credit of up to one
7 5 percent of the new investment.

7 6 (2) If the department determines, based on the application
7 7 of the eligible business, that one to five high-quality jobs
7 8 are created, the eligible business may claim a tax credit of
7 9 up to two percent of the new investment.

7 10 (3) If the department determines, based on the application
7 11 of the eligible business, that six to ten high-quality jobs
7 12 are created, the eligible business may claim a tax credit of
7 13 up to three percent of the new investment.

7 14 (4) If the department determines, based on the application
7 15 of the eligible business, that eleven to fifteen high-quality
7 16 jobs are created, the eligible business may claim a tax credit
7 17 of up to four percent of the new investment.

7 18 (5) If the department determines, based on the application
7 19 of the eligible business, that more than fifteen high-quality
7 20 jobs are created, the eligible business may claim a tax credit
7 21 of up to five percent of the new investment.

7 22 4. a. An eligible business may claim an insurance premium
7 23 tax credit equal to a percentage of the new investment
7 24 directly related to new jobs created by the location or
7 25 expansion of an eligible business under the program. The tax
7 26 credit shall be allowed against taxes imposed in chapter 432.
7 27 A tax credit in excess of the tax liability for the tax year

7 28 may be credited to the tax liability for the following seven
7 29 years or until depleted, whichever occurs first. The
7 30 percentage shall be equal to the amount provided in paragraph
7 31 "c".

7 32 b. For purposes of this subsection, "new investment
7 33 directly related to new jobs created by the location or
7 34 expansion of an eligible business under the program" means the
7 35 cost of machinery and equipment, as defined in section 427A.1,
8 1 subsection 1, paragraphs "e" and "j", purchased for use in the
8 2 operation of the eligible business, the purchase price of
8 3 which has been depreciated in accordance with generally
8 4 accepted accounting principles, the purchase price of real
8 5 property and any buildings and structures located on the real
8 6 property, and the cost of improvements made to real property
8 7 which is used in the operation of the eligible business. If,
8 8 however, within five years of purchase, the eligible business
8 9 sells, disposes of, razes, or otherwise renders unusable all
8 10 or a part of the land, buildings, or other existing structures
8 11 for which tax credit was claimed under this section, the
8 12 income tax liability of the eligible business for the year in
8 13 which all or part of the property is sold, disposed of, razed,
8 14 or otherwise rendered unusable shall be increased by one of
8 15 the following amounts:

8 16 (1) One hundred percent of the tax credit claimed under
8 17 this subsection if the property ceases to be eligible for the
8 18 tax credit within one full year after being placed in service.

8 19 (2) Eighty percent of the tax credit claimed under this
8 20 subsection if the property ceases to be eligible for the tax
8 21 credit within two full years after being placed in service.

8 22 (3) Sixty percent of the tax credit claimed under this
8 23 subsection if the property ceases to be eligible for the tax
8 24 credit within three full years after being placed in service.

8 25 (4) Forty percent of the tax credit claimed under this
8 26 subsection if the property ceases to be eligible for the tax
8 27 credit within four full years after being placed in service.

8 28 (5) Twenty percent of the tax credit claimed under this
8 29 subsection if the property ceases to be eligible for the tax
8 30 credit within five full years after being placed in service.

8 31 c. The amount of the tax credit claimed under this
8 32 subsection shall be determined as follows:

8 33 (1) If the department determines, based on the application
8 34 of the eligible business, that high-quality jobs are not
8 35 created but economic activity within the state is advanced,
9 1 the eligible business may claim an insurance premium tax
9 2 credit of up to one percent of the new investment.

9 3 (2) If the department determines, based on the application
9 4 of the eligible business, that one to five high-quality jobs
9 5 are created, the eligible business may claim an insurance
9 6 premium tax credit of up to two percent of the new investment.

9 7 (3) If the department determines, based on the application
9 8 of the eligible business, that six to ten high-quality jobs
9 9 are created, the eligible business may claim an insurance
9 10 premium tax credit of up to three percent of the new
9 11 investment.

9 12 (4) If the department determines, based on the application
9 13 of the eligible business, that eleven to fifteen high-quality
9 14 jobs are created, the eligible business may claim an insurance
9 15 premium tax credit of up to four percent of the new
9 16 investment.

9 17 (5) If the department determines, based on the application
9 18 of the eligible business, that more than fifteen high-quality
9 19 jobs are created, the eligible business may claim an insurance
9 20 premium tax credit of up to five percent of the new
9 21 investment.

9 22 Sec. 6. NEW SECTION. 15.386 AGREEMENT.

9 23 A business shall enter into an agreement with the
9 24 department specifying the requirements that must be met to
9 25 confirm eligibility pursuant to section 15.384. The
9 26 department shall consult with the community during
9 27 negotiations relating to the agreement. The agreement shall
9 28 contain, at a minimum, the following provisions:

9 29 1. A business that is approved to receive incentives
9 30 shall, for the length of the agreement, certify annually to
9 31 the community and the department the compliance of the
9 32 business with the requirements of the agreement.

9 33 2. The repayment of incentives by the business if the
9 34 business has not met any of the requirements of this part or
9 35 the resulting agreement.

10 1 3. If a business that is approved to receive incentives
10 2 under this part experiences a layoff within the state or
10 3 closes any of its facilities within the state, the department

10 4 shall have the discretion to reduce or eliminate some or all
10 5 of the incentives. If a business has received incentives
10 6 under this part and experiences a layoff within the state or
10 7 closes any of its facilities within the state, the business
10 8 may be subject to repayment of all or a portion of the
10 9 incentives that it has received.

10 10 Sec. 7. NEW SECTION. 15.387 OTHER INCENTIVES.

10 11 An eligible business may receive other applicable federal,
10 12 state, and local incentives and tax credits in addition to
10 13 those provided in this part. However, a business which
10 14 participates in the program under this part shall not receive
10 15 any funds, tax credits, or incentives under chapter 15,
10 16 subchapter II, part 13, or chapter 15E, division XVIII.

10 17 Sec. 8. Section 15.333, subsection 2, unnumbered paragraph
10 18 2, Code 2003, is amended to read as follows:

10 19 A tax credit certificate shall not be valid until the tax
10 20 year following the date of the project completion. A tax
10 21 credit certificate shall contain the taxpayer's name, address,
10 22 tax identification number, the date of project completion, the
10 23 amount of the tax credit, and other information required by
10 24 the department of revenue and finance. The department of
10 25 economic development shall not issue tax credit certificates
10 26 under this subsection and section 15.385, subsection 3,

10 27 paragraph "c", which total more than four million dollars
10 28 during a fiscal year. If the department receives and approves
10 29 applications for tax credit certificates under this subsection
10 30 and section 15.385, subsection 3, paragraph "c", in excess of

10 31 four million dollars, the applicants shall receive
10 32 certificates for a prorated amount. The tax credit
10 33 certificates shall not be transferred except as provided in
10 34 this subsection for a cooperative described in section 521 of
10 35 the Internal Revenue Code which is required to file an Iowa
11 1 corporate income tax return and whose project primarily
11 2 involves the production of ethanol. For a cooperative
11 3 described in section 521 of the Internal Revenue Code, the
11 4 department of economic development shall require that the
11 5 cooperative submit a list of its members and the share of each
11 6 member's interest in the cooperative. The department shall
11 7 issue a tax credit certificate to each member contained on the
11 8 submitted list.

11 9 Sec. 9. Section 15.337, Code 2003, is amended to read as
11 10 follows:

11 11 15.337 WAIVER OF PROGRAM QUALIFICATION REQUIREMENTS.

~~11 12 A community may request the waiver of the capital
11 13 investment requirement or the requirement for number of
11 14 positions created under section 15.329. However, in no event
11 15 shall the minimum number of jobs created be less than fifteen
11 16 or the minimum capital investment be less than three million
11 17 dollars per application under the program. The department
11 18 shall develop an appropriate formula of minimum jobs created
11 19 and capital investment required per program application which
11 20 can be authorized under the waiver. The department may grant
11 21 a waiver for good cause shown and approve the program
11 22 application.~~

~~11 23 As used in this section, "good cause shown" includes but is
11 24 not limited to a demonstrated lack of growth in the community,
11 25 a significant percentage of persons in the community who have
11 26 incomes at or below the poverty level, community a county
11 27 family poverty rate higher than the state average, a county
11 28 unemployment rate higher than the state average, a unique
11 29 opportunity to use existing unutilized or underutilized
11 30 facilities in the community, a significant downsizing or
11 31 closure by one of the community's major employers, or an
11 32 immediate threat posed to the community's workforce due to
11 33 business downsizing or closure. "Good cause shown" may also
11 34 include a proposed project by a business in one of the state's
11 35 targeted industry clusters which will make a higher than
12 1 average capital investment and which will pay an average
12 2 starting wage for all the new jobs created as the result of
12 3 the project that is significantly higher than the wage
12 4 requirement in section 15.329. For purposes of this section,
12 5 "targeted industry clusters" includes the industry clusters of
12 6 life sciences, information solutions, and advanced
12 7 manufacturing.~~

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CHRISTOPHER C. RANTS
Speaker of the House

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MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 677, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor